

CBT Chapters

- EEOC Overview
- Adhering to EEO Laws
- Consequences of Violations
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Equal Employment Opportunity Commission (EEOC)

The U.S. Equal Employment Opportunity Commission (EEOC) enforces federal laws prohibiting employment discrimination. These laws protect employees and job applicants against employment discrimination when it involves

- Unfair treatment because of **race, color, religion, sex (including pregnancy), national origin, age (40 or older), disability or genetic information**
- Harassment by managers, co-workers, or others in the workplace, because of race, color, religion, sex (including pregnancy), national origin, age (40 or older), disability or genetic information
- Denial of a reasonable workplace accommodation needed by the employee because of religious beliefs or disability
- Retaliation because the individual complained about job discrimination, filed a charge of discrimination, or assisted with a discrimination investigation or lawsuit



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Laws Enforced by EEOC

The following laws are enforced by the EEOC:

- The Age Discrimination in Employment Act (ADEA)
- Title I of the Americans with Disabilities Act of 1990 (ADA)
- The Equal Pay Act of 1963 (EPA)
- Sections 501 and 505 of the Rehabilitation Act of 1973
- The Genetic Information Nondiscrimination Act of 2008 (GINA)
- Title VII of the Civil Rights Act of 1964 (Title VII)
- The Pregnancy Discrimination Act
- Sections 102 and 103 of the Civil Rights Act of 1991



The following pages provide an overview of these laws.

Click the next arrow to continue.

Note: Arizona's Executive Order (2003-22) prohibits State agencies from discriminating on the basis of an individual's sexual orientation.

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ADEA

The **Age Discrimination in Employment Act of 1967 (ADEA)** protects people who are 40 or older from discrimination because of age. It prohibits discriminating against any individual with respect to compensation; terms, conditions, or privileges of employment; or from depriving an individual employment opportunities or taking adverse action against an individual because of his/her age.



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ADA

The **Americans with Disabilities Act of 1990 (ADA)** makes it illegal to discriminate against a qualified individual with a disability who is able to perform the essential functions of the job. Additionally, it requires that employers reasonably accommodate the known physical or mental limitations of an otherwise qualified individual with a disability who is an applicant or employee, unless doing so would impose an undue hardship on the employer's operation.
Note: ADA is discussed in detail in **LAW1007 (ADA)** (online course).



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The Equal Pay Act of 1963 (EPA)

The **Equal Pay Act of 1963 (EPA)** makes it illegal to pay different wages to men and women if they perform equal work in the same workplace.



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Sections 501 and 505 of the Rehabilitation Act of 1973

Sections 501 and 505 of the Rehabilitation Act of 1973 makes it illegal to discriminate against a qualified person with a disability in the federal government. The law also requires that employers reasonably accommodate the known physical or mental limitations of an otherwise qualified individual with a disability who is an applicant or employee, unless doing so would impose an undue hardship on the operation of the employer's business.

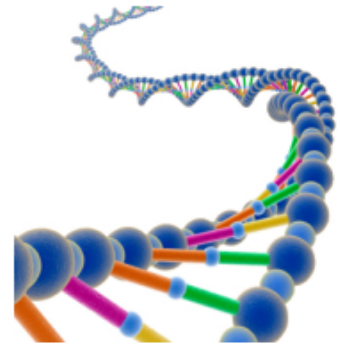


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The Genetic Information Nondiscrimination Act of 2008 (GINA)

The Genetic Information Nondiscrimination Act of 2008 (GINA) makes it illegal to discriminate against employees or applicants because of genetic information. Genetic information includes information about an individual's genetic tests and the genetic tests of an individual's family members, as well as information about any disease, disorder or condition of an individual's family members (i.e., an individual's family medical history).



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Title VII of the Civil Rights Act

Title VII of the Civil Rights Act (Title VII) prohibits discrimination based on race, color, religion, sex, or national origin. It also requires that employers reasonably accommodate applicants' and employees' sincerely held religious practices, unless doing so would impose an undue hardship on the employer. Title VII was amended by **The Pregnancy Discrimination Act** making it illegal to discriminate against a woman because of pregnancy, childbirth, or a medical condition related to pregnancy or childbirth.

Sections 102 and 103 of the Civil Rights Act of 1991, among other things, amended Title VII and the ADA to permit jury trials, compensatory and punitive damage awards in intentional discrimination cases.



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Employment Actions Covered by Anti-Discrimination

All of these laws protect employees and job applicants against employment discrimination relating to

- Job advertisements
- Recruitment, testing, and hiring
- Compensation, assignment or classification
- Transfer, promotion, layoff or recall
- Training programs
- Benefits, retirement plans and disability leave
- Use of agency facilities
- Other terms and conditions of employment

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Chapter Summary: EEOC Overview

This completes the EEOC Overview chapter. The next chapter discusses how to adhere to EEO laws. If questions arise as you go through this material, please take the time to write them down to discuss them with your supervisor.

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Adhering to Equal Employment Opportunity Laws

There are two basic methods for proving discrimination under EEO laws: disparate treatment and disparate impact. Disparate treatment requires proof that the employer intended to discriminate against the complainant when it took the challenged employment action.

Disparate impact claims, however, may be established without proof of discriminatory intent, but are often a burdensome task for discrimination victims. Instead, disparate impact derives from the theory that employment policies that appear neutral on their face may actually affect protected groups more harshly than an unprotected group. The ultimate burden rests with the employer to prove a "business necessity" for any such disparity.

Note: Even if adverse impact is found, the employment practice is not automatically invalid if the employer can prove the practice is job related and consistent with business necessity. Employers should scrutinize their job requirements to be certain that unnecessary requirements do not keep qualified persons from obtaining employment.



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Disparate Treatment

Consider this scenario:

Martha works as an Administrative Assistant. She applies for a promotion into a managerial position for which she meets the stated knowledge, skills and abilities, but is rejected. When she finds out that a male co-worker with less experience has been selected for the position, she suspects that she has been subjected to sex discrimination. She asks John, the manager who made the promotion decision, why the co-worker was selected over her and is told that the co-worker was more qualified for the position because he has an MBA. Martha, nevertheless, suspects that the real reason why she was rejected was because of her sex and files a charge with the (Equal Employment Opportunity Commission) EEOC.



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Disparate Treatment (continued)

What do you think?

If the supervisor was overheard saying he preferred to put a man rather than a woman into the position, then Martha may be able to establish sex discrimination. Typically, such statements are not witnessed and disparate treatment is proved circumstantially, in other words, a determination is made that the employer's explanation for its action is not believable. What facts might influence a decision that an employer's explanation for its action is doubtful?



- **False Information** - Martha could show believable evidence the agency provided a false explanation.
- **Differential Treatment** - Martha could show that similarly situated individuals of a different class were treated differently than she was.
- **Evidence of Bias** - If Martha's co-worker testifies that she heard John say that women don't make good managers, it would cast doubt on his explanation.
- **Statistical Evidence** - Martha could show that the agency rarely places females into management positions.

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Discrimination Based on Religion

Consider this scenario:

Juliet has been working for a State agency for five years. Recently, she converted to a religion called Machintoism, which requires her to refrain from work on seven occasions each year in order to observe holy days. Two of the holy days coincide with the agency's busiest time of year. Normally, employees are not granted annual leave during this time.



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Discrimination Based on Religion (continued)

What do you think?

As you know, under Title VII, an employer may not deny a job to an individual because of his/her faith. Title VII also imposes an additional obligation with respect to religion: accommodating the religious practices of employees and prospective employees unless it creates an undue hardship. Accommodation issues usually arise when an employee's religious practices conflict with his/her assigned work schedule.



Although no one may have ever heard of Machintoism, that does not mean that the agency can ignore Juliet's request. An individual's religious beliefs must be accommodated even if others might find the beliefs as incomprehensible or incorrect, and even if no specific religious group espouses those beliefs. The supervisor should contact the agency Human Resources office to discuss. Typically, the agency should err on the side of concluding that the practice or belief in question is sincere and should be accommodated if feasible.

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Discrimination Based on Religion (continued)

If an employee asserts a need for religious accommodation, the employer should

- Inquire as to the nature of the employee's beliefs
- Consider the sincerity with which the employee holds those beliefs
- Consider the nature of the conflict between the employee's religious beliefs and his/her job obligation
- Consider possible accommodations
- Consider the burdens to the agency of each accommodation
- Offer an accommodation unless to do so would cause undue hardship



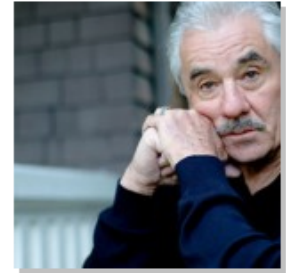
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Discrimination Based on Age

Consider this scenario:

Stan Supervisor continues to make constant remarks disparaging the ability of older workers to do the job. At one meeting, he presented a 55 year-old Investigator with a cane and walker and suggested an afternoon nap time for all of the "old codgers." For several months, the younger employees and other supervisors, egged on by Stan Supervisor, regularly taunted the older workers with ageist remarks. After four months of constant harassment, the workers over the age of 50 filed a charge of age discrimination with the EEOC.



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Discrimination Based on Age (continued)

What do you think?

This example emphasizes a work environment that makes it very difficult for older workers to perform their duties with skill and dignity. While courts have held that isolated remarks by supervisors might not rise to the level of discrimination, any employer permitting or encouraging such conduct may face a lawsuit.



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Retaliation

Previously you learned that retaliation is prohibited against an individual because he/she

- Opposed an unlawful employment practice or
- Made a charge, testified, assisted or participated in an investigation, proceeding or hearing

Note: An employee is protected against retaliation for his/her opposition to discrimination as long as he/she has a reasonable and good faith belief that the employer's conduct is illegal; even if the employee was wrong as to the legality of the employer's conduct. Also, even if an employee filed a false complaint of discrimination, if the employer retaliates against the individual, the EEOC may still find that the agency retaliated in violation of the law.



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Retaliation (continued)

Examples of unlawful employment retaliation include

- Denial of employee's right to oppose discrimination or participate in the EEO process (For example, an employer may not threaten to take adverse action if the employee refuses to cease complaining of discrimination to the EEOC.)
- Harassment and intimidation
- Denial of employment benefits
- Discharge, discipline, demotion, reassignment
- Unjustified evaluations and reports
- Acceleration of disciplinary action



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Retaliation (continued)

Examples of unlawful post-employment retaliation include

- Issuance of an undeserved negative reference regarding a former employee in retaliation for that individual's opposition to discrimination or participation in an EEO process
- Unwarranted contesting of an unemployment compensation claim



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Chapter Summary: Adhering to EEO Laws

This completes the Adhering to EEO Laws chapter. The next chapter will discuss the consequences of EEO violations. Remember to record your questions and discuss with your supervisor.

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Consequences of Violations

An employer that is found to violate these laws may be subject to the following remedies:

- **Injunctive Relief** - a court order prohibiting future discrimination
- **Reinstatement** - employer will be required to give the complainant the job that he/she would have had but for the discrimination
- **Back Pay with Interest** - back wages accrue from the date on which the discrimination first occurred
- **Front Pay** - if it is found that an individual was discriminatorily denied or terminated from a job, but no current vacancy exists, he/she can be awarded front pay until a vacancy occurs; it may also be awarded in lieu of reinstatement
- **Attorney's Fees**
- **Compensatory Damages** - available in cases of intentional discrimination, compensatory damages for monetary and non-monetary harm may be awarded



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Seek Assistance

This course was designed to introduce you to the laws enforced by the EEOC and focused on helping you recognize and prevent discriminatory practices on the basis of race, color, religion, sex, national origin, age (over 40), disability or genetic information. The consequences for violating any EEO law would have a detrimental and long-lasting impact on the State and your agency. You are responsible to adhere to these laws and report any violations.

Contact your Human Resources office if you have questions or need assistance.



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Chapter Summary: Consequences of Violations

This completes the Consequences of Violations chapter.
The next section is the final exam.

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